UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/1998/SR.46
10 November 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 April 1998, at 3 p.m.

Chairman	Mr. SELBI	(South Africa)
later:	Mr. GALLEGOS CHIRIBOGA	(Ecuador)
later:	Mr. HYNES	(Canada)

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GE.98-12212 (E)

The meeting was called to order at 3.05 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 10) (continued) (E/CN.4/1998/3 and Corr.1, 9, 12-15, 55-67, 68 and Add.1-3, 69-73, 113, 114, 126, 127, 130, 132, 138-140, 142, 147-150, 152, 154, 163 and 164; E/CN.4/1998/NGO/7, 13, 39, 40 and 101; A/52/472, 476, 479, 484, 486 and Add.1/Rev.1, 493, 505, 510 and 522)

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), introducing her report on the Human Rights Field Operation in Rwanda (E/CN.4/1998/61), said that, faced with the legacy of a genocide which had claimed the lives of at least half a million people, the Office of the High Commissioner had established the Human Rights Field Operation in Rwanda to support the Government's efforts to improve the human rights situation and foster national reconciliation. The Operation had carried out three types of activities since September 1994: conducting investigations into the genocide and other serious violations of human rights and humanitarian law; monitoring and reporting on the ongoing human rights situation; and implementing a broad-based programme of technical assistance and human rights promotional activities, including projects to strengthen the capacity of the country's judicial system, public institutions and civil society.

2. Since the previous session, however, problems had continued to exist. At the judicial level, investigations were still difficult and an enormous number of persons were still awaiting trial. Despite the Government's efforts, conditions in prisons were a matter for concern. In order to remedy matters in that area, the authorities should, where appropriate, urge those concerned to make voluntary use of the confession and guilty plea procedure provided for in the Genocide Law.

3. In the north-west of Rwanda, insecurity persisted, suggesting disregard for the basic standards of international human rights and humanitarian law. The situation of insecurity had adverse effects on agricultural production and limited the on-site activities of the United Nations agencies in general and of the Human Rights Field Operation in particular. She called on the international community to strengthen its multilateral and bilateral efforts to assist the Government in protecting the civilian population in the region. She encouraged the Government to prevent the excessive use of force and fully to respect international human rights and humanitarian law standards. She also welcomed the Security Council's recent recognition of the need for a renewed investigation of the illegal flow of arms to Rwanda.

4. In order to find a way out of its economic difficulties, Rwanda continued to require the political and financial support of the international donor community. The proposal to reform the property law to enable women to hold property was particularly welcome. The Human Rights Field Operation was focusing on assistance to vulnerable groups, particularly genocide survivors, in cooperation with all active United Nations agencies in Rwanda and in accordance with the established priorities of the Government in economic and

social matters. National reconciliation meant integrating the whole spectrum of fundamental rights, and especially the right to development, in all United Nations activities in Rwanda. In order to facilitate coordination between United Nations agencies and donor Governments, an intergovernmental body could be created to coordinate all activities relating to genocide survivors and to strengthen efforts in support of that particularly vulnerable group, in their role as claimants in genocide trials.

5. Mr. Gerard Fischer, who had been appointed Chief of the Human Rights Field Operation in February 1998, had begun an internal review of the Operation's role, priorities and functions in order more effectively to assist the Government of Rwanda in promoting and protecting all human rights. She counted on the full participation of the Government in the review in order to refocus the Operation's mandate in the light of the evolution of the situation and the need to leave self-sustained human rights institutions in place for the future. Mr. Fischer had already held an initial meeting with the Government to that end, but it was a matter of concern that the Government had submitted a written proposal suggesting the elimination of all monitoring activity. While she agreed with the Government of Rwanda on the need to shift the Operation's priorities towards technical cooperation, monitoring activity continued to be necessary precisely in order to assist the Government in introducing corrective measures when necessary and identifying human rights capacity-building initiatives. The Operation's aim was precisely to strengthen national capacity through technical cooperation projects focusing on the judicial system and the development of an enduring human rights culture in Rwanda. In that connection, she attached great importance to the Government's initiative to establish an independent human rights commission with a view to the phasing out of the Field Operation. She therefore appreciated the Government's cooperation with the Special Representative on the situation of human rights in Rwanda in ensuring that the creation and identification of functions of such an institution would be in keeping with the relevant international human rights standards.

6. The future of Rwanda lay in its internal capacity to ensure the promotion and protection of human rights and it was with that aim that her Office intended to provide all possible assistance.

7. Mr. GAHIMA (Rwanda) said that membrs of the former Government, the former Rwandan Armed Forces (FAR) and the former Interahamwe militia were solely responsible for the insecurity currently affecting Rwanda and that the violence they had unleashed was a continuation of the genocide of 1994. States must now comply fully with Security Council resolution 1161 (1998) relating to the flow of arms to those groups and the Commission must condemn the genocide. While he acknowledged that there had been some instances of use of excessive force by individual members of the security forces during military operations, abuses had neither been frequent nor extensive. They were not sanctioned by the authorities and they were always investigated and, where the evidence warranted, prosecuted.

8. The Government of Rwanda was disillusioned with the Field Operation, which had suffered from poor leadership and neglect by the Office of the High Commissioner, lack of competent, experienced and motivated personnel and restrictive United Nations security regulations. Its methods of operation had

lacked fairness and transparency. Since its officers had not performed any on-site investigations, most of its reports had been based on hearsay evidence. Although those issues had been raised on many occasions with successive heads of mission and the High Commissioner herself, the problems persisted. His Government believed that the mission no longer served any useful purpose in its current form and intended to undertake a review of its mandate and operation jointly with the High Commissioner. It did not accept the language of the High Commissioner's report (E/CN.4/1998/61). The field mission had come to the country at the invitation of the Government, which was proceeding on the basis that the review would be a joint one, not the High Commissioner's alone.

9. With regard to conditions of detention, it was admitted that prisons were overcrowded, but that was not a result of arbitrary arrests; it was a consequence of the genocide. The only long-term solution to the problem was the construction of additional prisons, but resources were lacking. The lack of resources also meant that the judicial system did not function properly; there was not enough personnel, remuneration was inadequate, there was little motivation and equipment and means of transport were lacking, etc.

10. Extremely large amounts of money were spent every year in the name of justice and human rights in Rwanda on far less deserving causes. Resources needed to be distributed more fairly among national institutions and United Nations operations and agencies, taking into account the country's true interests. His Government questioned the wisdom of spending more than $50 million a year on an international tribunal that was unable to conclude even a single trial after three years of operation, at a time when the domestic court system was in dire need of resources. The $30 million that the international community had spent in sustaining the Human Rights Field Operation might have served the cause of justice and human rights better if it had been allocated to programmes for the capacity-building of domestic institutions such as the police and the prosecution service or to help civil society in Rwanda at large.

11. Mrs. GRAZ (Reporters Without Borders) said that, over the past 10 years, more than 600 journalists had been killed in the course of their work. Although Zaire had become the Democratic Republic of the Congo in May 1997, the persecution of journalists had not ceased. In Algeria, 57 journalists had been murdered since January 1992 by groups claiming to represent the Islamic fundamentalist movement, although there were still doubts in that regard. Two journalists had "disappeared" after being kidnaped by the police. Dozens of others had been arrested and jailed and publications had been banned. In Ethiopia, 20 journalists were still in prison and some 20 more were awaiting trial. In Cameroon, journalists had been arrested, imprisoned and sentenced, one of them merely for reporting that the President of Cameroon had been taken ill. In Nigeria, despite promises of a transition to democracy, 90 journalists had been threatened, assaulted or arrested and some had still been in prison at the end of January 1998.

12. Cuba was the only country in Latin America without press freedom. Journalists working for independent news agencies were regarded as "traitors to the Fatherland" and imprisoned. Even a more democratic country like Mexico remained dangerous for journalists, increasingly greater numbers of whom were

threatened, assaulted and even murdered, basically because they had been investigating drug trafficking or abuse of power. Such persecution, which often went unpunished, was perpetrated in many cases by politicians, the armed forces in conflict zones (such as the States of Chiapas and Guerrero), civil servants and drug traffickers.

13. There was no time to mention all the countries where journalists were persecuted, but it should be remembered that fewer than half the Member States of the United Nations enjoyed freedom of the press.

14. Mrs. LITTLE (Andean Commission of Jurists) welcomed the fact that, in Bolivia, progress in eliminating unlawful coca-growing had paved the way for greater respect for the fundamental rights of the Chaparé farmers. In Peru, steps taken in connection with the courts were aimed at ensuring compliance with regular procedures. Democracy's foothold in that country, as in the rest of the region, was nevertheless frail, as proven by the fact that Peruvian intelligence had resorted to the torture and murder of two of their own female agents suspected of giving information to the press on action taken against certain opponents. In Venezuela, although the Government was trying to improve conditions of detention, 25,500 prisoners were crammed into establishments intended for 16,000. In Chile, the children of Colonia Dignidad had been subjected to sexual harassment and conscripts had been ill-treated. Members of the armed forces had been systematically involved in those cases. In Ecuador, innocent citizens had allegedly been the victims of ill-treatment by the police. Nearly all those cases had gone unpunished.

15. Colombia was caught up in a spiral of violence which was particularly disturbing in view of the domestic armed conflict and the activities of paramilitary groups, armed groups, drug traffickers and organized criminal groups which made a mockery of fundamental rights and international humanitarian law. There had been countless victims of violent deaths and persons who had been displaced within the country. The activity of paramilitary groups had become an instrument of impunity and, although there had been a drop in crimes attributed to the security forces those which could be placed at the door of the paramilitaries increased all the time.

16. If impunity was to be resisted in all the countries of the region, Governments must be resolutely in favour of the division of powers and the elimination of interference in the exercise of civilian power. In serious situations of violence, as in Colombia, political solutions were needed, too. The international community was therefore required to contribute to the most feasible peace process, one which grouped all the parties involved.

17. Mrs. GARCIA (North-South XXI) drew attention to two situations of violations of the fundamental rights of indigenous peoples in South America, taking place during the International Decade of the World's Indigenous People, proclaimed by the United Nations when the draft Declaration on the Rights of Indigenous Peoples was being drawn up. In Colombia, the existence of the U'wa people was being threatened by the activities of the oil industry, despite the guarantees offered by the authorities. The activities in question threatened

the territory, the environment, the values and the social stability of the U'wa. The Commission should take action to ensure respect for the cultural and territorial identity of that population group.

18. In Bolivia, the intervention of the armed forces in the Chaparé region had caused many victims among the population. When it had been confronted with legitimate demands by the people, the Government had only used repressive anti-constitutional measures and had called in the army, particularly in coca-producing areas. That was certainly not the way to solve the country's economic problems. Human rights violations were no longer, as in the past, being justified on the pretext of action to combat communism, but on that of action to combat drug terrorism, and that was the motive for persecuting the indigenous authorities. Such a return to the period of dictatorship should not be a matter of indifference to national and international public opinion.

19. Mr. Gallegos Chiriboga (Ecuador) took the Chair

20. Mr. UR REHMAN (International Institute for Peace) said that the release of Nelson Mandela had regrettably not marked the end of colonialism, which was still rife in the northern areas of Gilgit and Baltistan, part of the State of Jammu and Kashmir that had remained under the direct and illegitimate control of Pakistan since 1947. The United States State Department had recently estimated that 1.5 million inhabitants of the region were not protected by Pakistan's Constitution or judicial system or represented on the government bodies of the occupying country. Pakistan kept the region underdeveloped and the population's most basic aspirations were brutally repressed.

21. Although Pakistan proclaimed itself a champion of the right of self-determination of the people of Kashmir, the population of the territories in question were struggling to make their voices heard while some of their defenders were being subjected to persecution. Nevertheless, thousands of people aspired to be released from the yoke of Pakistan's colonialism. The people of Kashmir sought to be reunited with their families and friends, whether they were Hindus, Sikhs, or Muslims. They aspired to participate in the socio-economic development of other parts of the Indian subcontinent. The international community had a duty to act, in the spirit of the Universal Declaration of Human Rights, the fiftieth anniversary of which would be celebrated in 1998. The Office of the High Commissioner for Human Rights might consider sending a delegation to the northern areas and to Azad Kashmir to inquire into the fate of the populations in question.

22. Mr. GUPTA (Indian Council of Education) said that terrorism in all its forms had been frequently condemned by the United Nations General Assembly, the Commission on Human Rights and the summits of the Movement of Non-Aligned Countries and the G-7 countries. Commission resolution 1997/42 and the Secretary-General's note (E/CN.4/1998/48) on human rights and terrorism were of particular relevance. Terrorism, which was designed to undermine the legitimate authority of a Government or a State, could be an act by an individual, a group or even a State. It was supported by external forces and could take an ideological form. Whatever its form, its goal was to destabilize legitimate Governments, with a very damaging impact, especially in democratic countries, and to serve the very different objectives of its perpetrators.

23. In India, the State of Jammu and Kashmir was the target of terrorist activities supported by Pakistan, which encouraged large-scale destabilization and subversion in the state by promoting the indoctrination of young people and the training of mercenaries, and by providing financial incentives and strategic guidance. The population of Jammu and Kashmir were thus the victims of acts of violence by mercenaries trained in neighbouring countries.

24. The Commission should once again strongly condemn mercenary and terrorist activities and ensure that States adopted the necessary measures to prohibit the use of their territory for organizing or encouraging terrorism.

25. Mr. PAPPALARDO (France Libertés: Fondation Danièle Mitterrand) said that, at the previous session, his organization had referred to the Berlin trial, which had, for the first time, established the responsibility of the Iranian State in the organization and perpetration of a terrorist act outside its own borders. It had also furnished a list of 240 Iranian opponents murdered abroad. The Commission should take up the verdict of the Berlin court in order to condemn strongly Iran's indefensible practices. In Turkey, freedom of expression and opinion seemed threatened following the dissolution of REFAH, the majority party, and the arrest of leaders of other political parties. The holding of municipal elections and the fear of a massive HADEP party victory in the south-west of the country were certainly the reason for the new wave of arrests which had been observed.

26. Just when it had seemed possible to welcome the peaceful settlement of the crisis between the Government of Iraq and the United Nations, it appeared that the regime had not abandoned its unacceptable methods after all. In December 1997, 81 opponents had allegedly been executed in Iraq, not to mention the fact that nearly 300 persons had died during the so-called "prison cleansing" operation. The Government decree of 12 January 1998, moreover, requested the immediate deportation of 1,468 Kurdish families in the region of Kirkuk. The responsible Iraqi authorities should not go unpunished and his organization once more requested the establishment of an international court for Iraq.

27. In Mexico, the international community was still waiting for the persons who had ordered the Acteal massacre to be brought to justice.

28. In Tunisia, the situation of human rights defenders was untenable. His organization urged that the former president of the Tunisian League of Human Rights, Mr. Ksila, should be released. As for Algeria, his organization could only support the efforts of the Secretary-General and the High Commissioner for Human Rights and it encouraged the Algerian Government to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture to visit the country as soon as possible.

29. In conclusion, his organization welcomed the fact that the Commission's pre-sessional open-ended working group had finalized the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms on 4 March 1998. It hoped that the Commission would adopt the text and that a special rapporteur would be appointed on human rights defenders.

30. Mr. de MEDINA-ROSALES MATRÁN (International League for the Rights and Liberation of Peoples) drew the Commission's attention to the situation of human rights in Cyprus, where the humanitarian crisis for which Turkey was entirely responsible had lasted for more than 20 years. Although it claimed to respect international and European human rights standards, Turkey continued not only to disregard the right of refugees to return to their homes and recover their property, but also imposed additional restrictions on the freedom of movement of Greek Cypriots in the occupied territory and showed no intention of withdrawing its 35,000 troops and settlers. Those were only minimum requirements stipulated, inter alia, in the Commission's resolutions and the relevant rules of international humanitarian law.

31. In Peru, President Fujimori had been governing by decree, with the support of the armed forces, since the coup d'état of 1992. He enacted legislation in order to break down any opposition, amended the Constitution as he pleased, dismissed judges who opposed him, imprisoned human rights defenders and prohibited newspapers which did not publish the "official truth". The indigenous population, i.e. the majority, was subjected to discrimination. The social situation was disastrous. Access to education, health and dignified employment was almost non-existent. In its comments on Peru's latest periodic report, the Committee on Economic, Social and Cultural Rights had recommended that urgent measures should be adopted, particularly in respect of social justice, the cessation of forced expulsions in Amazonia and the abolition of child labour.

32. With regard to the Human Rights Committee's conclusion that Victor Polay Campos, the leader of the revolutionary Tupac Amaru movement, should be released or should have access to an effective legal remedy, his organization's opinion was that all Peruvian prisoners who had been sentenced under similar conditions should also be released. It also pointed out that conditions in Peru's prisons were absolutely not in conformity with United Nations principles. It requested the Commission to adopt a resolution requiring the Peruvian Government to comply with its international human rights obligations.

33. Mr. CASTILLO BARROSO (Cuban Movement for Peace and the Sovereignty of Peoples) said that his organization once again denounced the genocidal nature of the blockade against the people of Cuba ordered 40 years earlier by the Government of the United States and rejected as biased the report of the Special Rapporteur for Cuba, which served the interests of the United States authorities by justifying the maintenance of its criminal blockade. It also wished to report on the results of the heroic resistance of the Cuban people, supported by representative bodies of the international community and by eminent persons. For example, General Assembly resolution 52/10, adopted by 143 votes in favour and 3 against, condemned the blockade for the sixth year running; the Eighth Institutionalized Ministerial Meeting of the European Union and the Rio Group had categorically rejected unilateral and extraterritorial legislation as contrary to international law and the rules of the World Trade Organization; Pope John Paul II had described as unfair and ethically unacceptable the restrictive economic measures imposed on Cuba from abroad; statements had been made by the leaders of the Council of Christ Churches (United States) and of the important organization "Nation of Islam"; on 13 January 1998, the United States Chamber of Commerce had requested the

lifting of the ban on sales of medicines and food to Cuba; and courageous efforts had been made by some members of the United States Congress to promote a bill excluding medicines and food from the provisions of the infamous Helms-Burton Act.

34. Those points of view were ignored or subtly manipulated in the report of the Special Rapporteur (E/CN.4/1998/69), who defended inadmissible acts against the sovereignty and self-determination of Cuba. The international community would not be acting in conformity with the principles of the United Nations if, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights and on the eve of the new millennium, it did not unite to put an end to the variation on undeclared war constituted by the cruellest blockade ever imposed on a single nation and, in the context of the Commission, to the mandate of the Special Rapporteur.

35. Mr. PARY (Indian Movement "Tupaj Amaru") said that economic embargoes which were unilaterally decreed by economic and military powers against small countries had adverse effects on human rights and were an affront to the conscience of the international community, which must demand that they should immediately be lifted. Disregarding the Charter of the United Nations and international instruments, the United States was endeavouring to destroy Cuba's socialist experiment, which had been freely decided by the people of Cuba, through economic and political pressures. Despite United Nations resolutions, the embargo against Cuba had been drastically strengthened by the Toricelli amendment and by the Helms-Burton Act, the purpose of which was to put a stranglehold on the Cuban economy and to destroy the country's political and economic system. By prohibiting the purchase by the Cuban people of basic necessities on the United States market, the cruellest embargo in history added still further to the tremendous difficulties Cuba was facing.

36. It was, however, in Iraq that the economic embargo imposed on the country by Security Council resolution 661 (1990) had the most dramatic and the most barbarous effects. Like the indigenous peoples of America before it, the people of Iraq had fallen victim to the greed of the neocolonial powers. The goal of the Gulf war had not been to liberate Kuwait, but to conserve the geopolitical interests of the economic and military powers. Iraq was currently disarmed, disabled and relegated to a pre-industrial era, while a third of its population subsisted in conditions of extreme poverty. In the name of the United Nations, "controlled genocide" was being committed against a people who had been sacrificed to the new international economic order, with the connivance or the indifference of the international community.

37. His organization urged the Commission to give priority consideration to the consequences of the wars of aggression being waged on the rights of the Iraqi people and urged the United States and its allies to cease their policies of aggression and intimidation and to end as soon as possible an embargo which had no legal basis or moral justification in a world where antagonistic blocs no longer existed.

38. Mr. Selebi (South Africa) resumed the Chair.

39. Mr. VOYER (Indian Law Resource Center) drew the Commission's attention to the situation of the Western Shoshone people in the United States of America. The United States Government was threatening to force off its

ancestral lands an indigenous people which had since time immemorial occupied a territory within the Great Basin region whose boundaries had been described in the 1863 Treaty of Ruby Valley. The economic and cultural survival of the Western Shoshone people was entirely dependent on the land and its resources. For several years, the United States, basing itself on the interpretation of a statute unilaterally enacted by the United States Congress, had been taking action to prevent certain Western Shoshone groups from using and occupying their land. On 19 February 1998, the United States Bureau of Land Management (BLM) had taken several decisions and had declared that those groups had no right to be where they were, threatening them with fines, imprisonment and impounding their cattle and confiscating their property. The Inter-American Commission on Human Rights had requested the United States to stay its action pending an investigation of the matter. On 6 April, however, the BLM had threatened the Western Shoshone with measures if they did not remove their livestock and property from the disputed land within 15 days.

40. The United States authorities had informed his organization that their country did not consider itself to be bound by the decisions of the Inter-American Commission on Human Rights. The position of the United States, which went against the spirit of the international cooperation in the field of human rights advocated by the representative of the United States, Mr. Richardson, at the Commission's current session, was very disturbing. His organization urged the Commission to ask the United States to comply with the request of the Inter-American Commission on Human Rights and to stay its action against the Western Shoshones. The United States should also move quickly and in good faith to resolve the issue of indigenous land rights in a manner consistent with its obligation to promote the full enjoyment of human rights and fundamental freedoms.

41. Mr. EIBNER (Christian Solidarity International, CSI) said that over 20 fact-finding visits to Sudan in the past five years and the findings of other human rights organizations confirmed that Sudan remained Africa's worst human rights disaster zone. Its conclusions concurred with those of the Special Rapporteur (E/CN.4/1998/66) that there had been no improvement since the Commission's adoption of resolution 97/59. The figures published by the United States Committee for Refugees confirmed the genocide that was taking place. The Special Rapporteur had exposed some of the methods used by the National Islamic Front (NIF) to implement a totalitarian and genocidal "holy war". By far the most powerful instrument was to starve the population by causing famines and by manipulating humanitarian aid. Vast regions of the country had been subjected to military offensives and economic embargoes and were closed to United Nations agencies and other international organizations.

42. The principal victims were the prominently Christian and Animist communities that resisted forced Islamization and Arabization. But, as with all totalitarian ideologies, the "Jihad" affected the entire population, including Muslims. The NIF was an extremist political and religious sect representing not more than 10 per cent of the population of northern Sudan. It had banned all democratic political parties and had not hesitated to imprison and torture a Muslim leader as distinguished as the former prime minister, Sadiq El Mahdi. It could be assumed that it reserved far more cruel punishments for less prominent citizens.

43. His organization urged the Commission to take account, in its resolution on Sudan, of the warning by the United Nations Secretary-General, in a recent interview in the Tribune de Genève, to the international community against further complacency when confronted with genocide and to condemn in the strongest term the NIF's countless gross violations of human rights and especially its role in the genocide. It encouraged the Secretary-General to take a firm stand against genocide and to act urgently.

44. Mrs. MILLI (December 12th Movement International Secretariat and International Association Against Torture) drew the Commission's attention to the violation of the human rights of political prisoners in the United States of America. The two non-governmental organizations which she represented were deeply concerned about the plight of persons on death row and were especially outraged by the State of Pennsylvania's plans to execute the writer and journalist Mumia Abu Jamal. His case symbolized the blatant practice in the United States of violating the human rights of those who struggled against oppression, particularly persons of colour. After summarizing the conditions in which Abu Jamal had been tried and sentenced for a crime he had not committed, she informed the Commission that, on 6 December 1997, an international people's tribunal had been held in Philadelphia on Abu Jamal's behalf and had resulted in recommendations for his immediate release and compensation, an independent international and impartial judicial investigation into the FBI's counter-intelligence programme and an urgent request to the Secretary-General of the United Nations to appoint the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on torture and on the independence of the judiciary to conduct hearings in Philadelphia.

45. She urged the Commission to support those recommendations and a resolution adopted on 1 April 1998 by the European Parliament recommending, inter alia, that Abu Jamal should be retried. She urged the Commission to condemn the recent repressive measures against all the inmates on Pennsylvania's death row. She referred the Commission to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to the United States and requested that both he and the Special Rapporteur on torture and the Working Group on Arbitrary Detention should carry out further investigations. She also requested the Commission to appoint a special rapporteur to investigate patterns of persistent human rights violations in the United States of America.

46. Mr. Hynes (Canada) took the Chair.

47. Mr. FERNANDEZ BULTE (Felix Varela Centre) said that his organization was a Cuban NGO engaged in the drafting of new ethical premises for the third millennium to contribute to ensuring the survival of humanity. It therefore had an involvement in human rights and in endeavours to ensure sustainable development. The anachronistic language used in the Commission, a reminder of the cold war years, made him shudder, especially in the case of the report of the Special Rapporteur on the situation of human rights in Cuba. Such language only hardened antagonistic positions when in fact it was high time for creative thinking in order to promote diversity of experience and pluralism, together with a tolerance which would not be merely rhetorical.

48. The Centre called for an end to the old confrontation and discriminatory treatment against Cuba and demanded the lifting of the blockade asphyxiating the country. If the Commission was not to lose credit and, consequently, its effectiveness, it should not allow itself to be diverted from its task of seeking ways to allow human rights to be defended and the sustainable development of the planet to be ensured.

49. Mr. MARTÍN SÁNCHEZ (National Union of Jurists of Cuba) said that the views of the Special Rapporteur on the situation of human rights in Cuba on the legality of his organization (E/CN.4/1998/69) were regrettable; by his own confession, those views were spread by groups of Cubans living in the United States or came from members of Congress. His organization performed important educational work in cooperation with prestigious institutions like the Inter-American Institute of Human Rights and the International Committee of the Red Cross. It contributed to the rule of law by participating in the law-making process. It had, for example, taken part in the drafting of three new laws which had been enacted in the course of the previous year. The first regulated the structure and the functioning of the courts of law and strengthened the unity and independence of the judiciary system, established the principle that judges were accountable only to the law itself and confirmed the equality of participation of jurymen in trials so as to ensure transparency and democracy in the administration of justice. The second bill was a law on the Attorney-General of the Republic, whereby the Office of the Attorney-General not only had the function of monitoring observance of legality, but also of defending the rights of citizens. An individual could therefore file a complaint or bring a suit in the event of an abuse by agents of the State. The third law aimed at updating the labour justice system by providing full guarantees to all workers, regardless of their employment, and creating labour courts with equal representation in the workplace. He found it astonishing that such achievements had been completely ignored in the Special Rapporteur's report.

50. Cuban society was not static, petrified or totalitarian, as some people wished to depict it. There were more than 2,000 non-governmental associations and organizations in Cuba which imbued Cuban civil society with its own special dynamism. Far from being conformist bureaucrats, Cuban jurists were determined upholders of human rights and justice. Their objective was not to change the revolution in keeping with the wishes of the Special Rapporteur, who was trying to impose a model which had already failed in Cuba, but to make changes within the revolution. Even while recognizing the impact of the blockade on the most vulnerable sectors of the population, the Special Rapporteur omitted to say that the blockade was the worst possible violation of both individual and collective human rights.

51. Mr. NWIIDO (World Council of Churches) said that the Council was deeply concerned about gross and systematic human rights abuses in Nigeria in general and in Ogoniland in particular, where there had been an increase in extrajudicial executions and enforced disappearances. As a result of atrocities committed by the security forces, hundreds of Ogoni people had been forced to seek shelter in the Republic of Benin. More than 200 others had been arrested by the military. Early in 1998, the Council had received news of military raids on the local population as they prepared to celebrate Ogoni Day on 4 January 1998. During those operations, several persons had

been arrested. The previous day, the security forces had arrested Batom Mitee and 20 other persons, who had, according to eye-witness reports, been beaten up. In a letter to the Permanent Mission of Nigeria to the Office of the United Nations in Geneva, the Council had urged the authorities either to inform those arrested of the charges against them and give them an opportunity to defend themselves in a court of law or to release them immediately.

52. The Council, which had been urging Shell to negotiate with the representatives of the Ogoni people since 1996, noted with satisfaction the recommendation of the Special Rapporteur on the situation of human rights in Nigeria (E/CN.4/1998/62) that an independent agency should be set up to determine all aspects of environmental damage due to oil exploration and other operations. In September 1997, the Central Committee of the World Council of Churches, had, inter alia, urged Shell International to negotiate in good faith with the freely chosen representatives of the Ogoni people and with the representatives of civil society organizations in other parts of Nigeria with respect to its responsibilities in that country, including reparations for environmental destruction; it had urged all international oil companies active in Nigeria to review their operations with respect to their environmental and social impact and to withhold their cooperation from the Nigerian Government until such time as the rule of law had been restored and a civilian government freely chosen by the people was firmly in place; and it had called for the initiation of a fully participatory national dialogue in Nigeria to elaborate a new constitutional framework for governance.

53. Mr. VITTOTI (Pax Christi International) said that the majority population of Kosovo, which had been deprived of its independent status in 1989, was the victim of systematic persecution. The recent massacres in Drenika bore the stamp of deliberate ethnic cleansing. The people of Kosovo had chosen non-violent resistance, but that option was increasingly difficult to abide by. On the pretext that the conflict was an internal one, the great Powers were allowing the irreparable to be done, as had been the case in the Great Lakes region, and the statement made by the Chairman of the Commission on 24 March 1998 would go unheeded if the Governments which had adopted it did not force Serbia to comply with international law.

54. In Nigeria, pressure on the Government must be stepped up so that democracy could be restored and the Ogoni people could recover the rights that had been sacrificed to powerful oil interests.

55. If the international community had used the means at its disposal in Indonesia to oblige the authorities to comply with the resolutions of the Security Council, the people of East Timor would not be enduring protracted suffering. Burma under the military had become the world's major heroin producer. The regime in force, which had practically restored slavery, should be outlawed by the international community.

56. In view of the atrocities committed in Algeria, it could be asked why the Government, which was clearly not in a position to put an end to the carnage, refused help from the United Nations. In the Islamic Republic of Iran, it was still too early to share the optimism of the business world; repression had not eased and the number of executions had even increased. In Sudan, the assurances given by the Government were contradicted by the brutal

nature of the situation. The Democratic Republic of the Congo, which had a great deal to hide, had silenced its opposition and refused all visits from international observers. The strategy of the Mexican Government in Chiapas was also extremely alarming and the eviction of foreign witnesses was an ominous sign.

57. The International Criminal Court was having great difficulties in defining its nature, its jurisdiction and how it would operate. There was no basic difference between the suffering or the death of a child caused by racial hatred or by an unjustified blockade; criminals should be brought to justice without extenuating circumstances.

58. Mrs. VASQUEZ GOMEZ (International Working Group for Indigenous Affairs) introducing the testimony of women who had survived the Acteal massacre in Chiapas, said that paramilitary groups, which the Mexican Government tolerated and possibly supported, had attacked indigenous persons who were not members of the PRI. The women had been taken hostage and threatened with rape. Members of the peaceful organization Las Abejas, to which she herself belonged, had been hunted down. More than 9,000 persons had had to flee their land and had become refugees, under the protection of the Mexican Red Cross and other aid agencies. In view of the situation, she asked the Commission to appoint a Special Rapporteur to consider the situation in Mexico and to request the Mexican Government to agree to receive the Special Rapporteur on extrajudicial, summary or arbitrary executions, to disband the paramilitary groups and banish their leaders, to give guarantees to indigenous populations so that they could return safely to their communities, to withdraw the armed forces and police from the indigenous territories, to compensate the victims of the repression for the deaths of their murdered brothers and the loss of their harvest and to comply with the San Andrés agreements.

59. Mr. SRIVASATAVA (International Institute for Non-Aligned Studies) said that, while it was important to provide relief to the victims of human rights violations, it was more important to tackle the underlying causes. Many rapporteurs and experts had recognized that, in the long term, the establishment of democratic structures was the best means of enabling people to realize their rights, pointing out that even those people who had the potential for progress in all fields remained hostage to systems whose only purpose was to perpetuate discrimination and the power of the ruling classes. The independent expert on the situation of the human rights in Haiti and the Special Representative of the Secretary-General for human rights in Cambodia had drawn attention to the poor functioning of the judiciary in both countries, a shortcoming that was clearly due to the absence of democratic structures.

60. It was unfortunate that States which were in a position to contribute to respect for human rights in the world were more preoccupied with political and strategic issues than with the future of civilian populations around the world. His institute appealed to the great Powers not to use general sanctions, the only effect of which to date had been to increase the suffering of the populations of countries such as Iraq, Libya, Cuba and the former Yugoslavia. They needed to find an integrated approach to the issue of human rights to ensure the equitable treatment of people everywhere in the world. A

more intelligent use of their resources was also needed if they were to change education systems which were turning out backward minds and if they were to spread democratic values.

61. Mr. HADJAB (Movement against Racism and for Friendship among Peoples, MRAP) said that, although he intended to refer in his statement to Indonesia, Burma and China, he could not remain silent about the bloody conflict tearing Sri Lanka apart. It was useless to expect human rights to be respected in such a war. He drew attention to the fate of the Mohajirs, the Muslims from India who had emigrated to Pakistan. The Government of Pakistan must put an end to the repression against them.

62. In Indonesia, human rights violations were getting worse every day. The massacres which had been perpetrated by the army since 1965 and which had cost the lives of 3 million Indonesians and East Timorese had been brought to the Commission's attention by various NGOs. Since the right to life was not respected, the right to information and the right to freedom of association clearly fared no better. Such violations continued because they went unpunished. In the region of Jakarta alone, there had been some 100 deaths in recent months. There had also been an increase in the disappearance of persons whose opinions were not to the Government's liking and who were presumed to have been kidnapped and detained by the military authorities. Along with the text of its statement, his organization was submitting a provisional list of missing persons to the Commission. Those arrested were systematically tortured and the testimony of Mr. Hendrik Dikson Sirait, the text of which had also been distributed, was very relevant.

63. The previous day, the Commission had heard the testimony of several representatives of the movement for democracy in Burma on the serious human rights violations which continued to be committed in that country. In that connection, he once again raised the question of the representativeness of certain "eminent persons" who took part in the Commission's work. It had been nine years since elections had been held in Burma and the international community was still waiting for the military regime to establish a constructive dialogue with the elected representatives of the people. The cultural genocide to which the country's ethnic minorities were subjected must also be denounced.

64. With regard to the People's Republic of China, his organization drew the Commission's attention to the cases of Mr. Li Bifeng, who had been arrested for revealing information on social protest movements, and Mr. Shen Lianqing, who had received an administrative sentence of two years of re-education through labour for writing open letters in favour of political reform and respect for human rights.

65. Mr. RANDHAWA (Human Rights Advocates) drew the Commission's attention to the pattern of gross human rights abuse in Punjab Khalistan. The Special Rapporteur on extrajudicial, summary or arbitrary executions had expressed deep concern about violations of the right to life by Indian security forces, which, according to Amnesty International, acted with the sanction of the State. Recent investigations had indicated that the Punjab police had ordered the cremation of thousands of unidentified bodies. Since the investigations had covered only one of 18 districts in Punjab, the Indian Supreme Court had

ordered the Central Bureau of Investigation to investigate all regions of the State. Unfortunately, the results had been sealed at the Bureau's request.

66. The Working Group on Enforced or Involuntary Disappearances reported 272 cases of disappearances brought to the attention of the Indian authorities. According to Amnesty International, the practice was systematic. India's response had been to refuse to cooperate.

67. Torture continued to be endemic, although India had signed the Convention against Torture. An investigation at the National Police Academy revealed that 17 per cent of senior officers agreed that confessions could be extracted by torture.

68. The main targets of human rights violations were journalists, members of opposition parties, lawyers assisting abused victims and individuals who had cooperated with United Nations human rights bodies. No effective legal remedies were available in Punjab. The police often refused even to file the initial report without which there could be no investigation and, even when a complaint was filed, the judicial procedure was prohibitively long and expensive. In addition, the victims and their families and witnesses were harassed and intimidated by the police, whose members often refused to cooperate with the courts. Special laws ensured that members of the security forces could not be prosecuted, thus allowing them to act with impunity.

69. In the circumstances, the refusal to permit international human rights observer bodies to go to Punjab was particularly alarming, particularly as a number of restrictions limited the action of the National Commission on Human Rights, which was not empowered to investigate allegations of human rights violations against the armed forces or to investigate cases more than a year old.

70. In view of the pattern of gross violations of human rights, it was recommended that the Commission should ask India to authorize human rights organizations to visit Punjab, to publish the conclusions of the report of the Central Bureau of Investigation on the incinerations, to ensure compliance with the decisions of the judiciary and to expand the competence of the National Commission on Human Rights so that it could effectively carry out its duties.

71. Mr. RAVENNA (Permanent Assembly for Human Rights) said it was regrettable that, with the establishment of democratic regimes, the perpetrators of serious human rights violations under previous regimes very often went unpunished. There were two explanations for that problem: in the first place, a liberal State was a weakened State which did not fully assume its powers and, in particular, did not fully guarantee the security of its citizens and their access to independent justice; and, secondly, in order for the perpetrators of yesterday's genocide to be able to coexist day after day with their victims, other forms of complicity were created and often led to further impunity. In Argentina, for example, the perpetrators of the attacks on the Argentine-Israeli Mutual Association and the Embassy of Israel were still not known, and the murderer of the journalist and photographer José Luis Cabezas had still not been identified.

72. The institution of proceedings in Italy and Spain in connection with the disappearance of Italian and Spanish nationals in Argentina and Chile was to be welcomed because they would give a fresh impetus to action to combat impunity. The investigations had shown that notorious criminals held numbered bank accounts in Switzerland and the Swiss Government should be thanked for its cooperation in that regard. It was noteworthy that the Menem Government refused, for example, to give information about General Bussi's tax and property situation. The holding of those trials would be an important factor for the Diplomatic Conference which was to be held in Rome starting on 16 June and at which it was to be hoped that States would agree to establish an international criminal court that would be permanent, fair and impartial and have an independent prosecutor, as well as competence to try all crimes and to receive complaints from individuals, while being able to authorize the participation of NGOs and benefit from all possible guarantees for holding fair trials.

73. He denounced the attitude of Spain, which said that 18,246 Argentine nationals were authorized to work in the country, but had brought proceedings against Argentine dental surgeons for xenophobia. The situation had been brought to the attention of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

74. Mr. KHANAL (Nepal) said that, in its concern to strengthen respect for human rights, his Government had, since the country's return to democracy, established a national commission on human rights and had enacted laws on compensation to the victims of torture. In order to minimize the chances of possible violations of fundamental rights by security personnel, principles of human rights and humanitarian law had been included in the curriculum of the police training programme. The Constitution of Nepal guaranteed the enjoyment of rights to every citizen without discrimination. The authorities were currently scrutinizing all domestic laws so as to remove all discriminatory provisions, although time was necessary to amend some centuries-old traditions deeply embedded in society. All citizens had full freedom of expression and freedom to exercise their political choice through the ballot box, without resorting to violence or terror.

75. For the past couple of years, there had nevertheless been senseless acts of violence perpetrated by a group of people claiming to be from the Communist Party of Nepal (Maoist). In the name of a so-called "people's war", that group had been attacking police posts in some remote districts and killing and maiming innocent civilians who did not subscribe to their ideology, thus violating fundamental rights and flouting the norms of civilized society. The authorities had been compelled to take appropriate action against the perpetrators of those acts, in accordance with the law. The circumstances under which the terrorists in question had been arrested and interrogated had been exaggerated in the information transmitted by the Special Rapporteur (E/CN.4/1998/68/Add.1). In no cases had the law enforcement authorities resorted to any form of brutality and there had been no instances of deaths in police custody. The security forces could not act without the approval of the local civilian administrator, who authorized the use of force only if he was convinced of danger to human life. His delegation therefore denied all the charges made as baseless.

76. As one of the least developed countries in the world, Nepal could not afford to have its development activities obstructed by undemocratic acts of violence inspired by political prejudice. In its concern to put an end to terrorist acts by peaceful means, the Government had on several occasions offered their perpetrators opportunities to negotiate and discuss their grievances, but the initiatives had been in vain. The authorities were nevertheless determined to resolve the problem peacefully.

77. Mr. LORUTTI (Argentina), referring to the question of human rights in Cyprus, thanked the Secretary-General and his new Special Adviser for Cyprus, Mr. Córdovez, for their efforts to seek a comprehensive solution, particularly by means of ongoing direct negotiations among the leaders of the Greek Cypriot and Turkish Cypriot communities. He welcomed the humanitarian activity of the United Nations Peace-keeping Force in Cyprus, in particular in encouraging contacts and establishing confidence between the two communities by encouraging activities which included both. He noted with satisfaction that, following the first meeting in July 1997, the representatives of the two communities had met again on 23 January 1998 in the presence of the Special Representative of the Secretary-General.

78. His Government nevertheless continued to be concerned about the situation of human rights in Cyprus and to hope for a fair settlement, based on international law, particularly provisions on the right of refugees to return home and to recover their property which would make it possible for a single independent Cypriot State to exist in which the two communities would cohabit on an equal footing; it was therefore in favour of a federation composed of two communities and two zones and ruled out total or partial union with another country or any other type of partition or secession.

79. The Turkish Cypriot authorities had improved the humanitarian situation to some extent compared with 1995, for example, by increasing the number of telephone lines in some regions and by permitting the Force's patrols to meet the Greek Cypriots in the Karpas sector without a police presence. It was to be regretted, however, that many of the restrictions on movement and rights of inheritance imposed on the Greek Cypriots and on the Maronites living in the north of the island still existed. The deterioration of churches and other religious property was also a subject of concern.

80. His delegation urged both parties to implement the resolutions of the General Assembly, the Security Council and the Commission.

81. Mr. AGURTSOU (Belarus) said that, 50 years after the adoption of the Universal Declaration of Human Rights, no country in the world could claim total respect for human rights. Similarly, no country could claim to establish rules and criteria for human rights. The policy of double standards in evaluating human rights situations was unacceptable, as was the fact of using the protection of human rights to promote political interests. Only a constructive and balanced approach, based on cooperation and dialogue, could genuinely contribute to improving the human rights situation. It should also not be forgotten that, to promote human rights the root cause of violations must be tackled and it was often economic in nature.

82. Despite the difficulties that his country was encountering during the transition period from a centralized totalitarian regime to democracy and a market economy, the Government was sparing no effort to build a State based on pluralism and the rule of law. It was endeavouring to mitigate the effects of the transition on the people's enjoyment of its economic, social and cultural rights. Economic difficulties were aggravated by the fact that the country still had to spend 20 per cent of its annual budget on the consequences of the Chernobyl nuclear accident. However, in a State that was multinational and multiconfessional, there was no ethnic or religious conflict, an exceptional situation in a former member country of the USSR.

83. The main problem facing Belarus was perhaps one which was common to all countries in a period of transition, namely, the change in attitude towards social and political questions in general. Democracy was not established in a day and could not be decreed from the top down. The Government was gradually introducing reforms which should eliminate remaining obstacles to the realization of human rights. While emphasizing the importance of the role of technical assistance, it intended to ensure the success of the programme drawn up with NGOs, in cooperation with UNDP, to strengthen institutions and infrastructures for the protection and promotion of human rights.

84. His Government also wished to cooperate with European regional organizations, particularly OSCE, in order to establish democratic institutions and training programmes for its citizens. It had been visited by an OSCE advisory and monitoring group and cooperation with the group should make it possible to strengthen human rights legislation and institutions, for example, through the establishment of an ombudsman's post. His Government welcomed with interest all cooperation with foreign Governments, international organizations and NGOs.

85. Mr. PALIHAKKARA (Sri Lanka) said that, although his Government had launched an integrated strategy for peace and development, the Liberation Tigers of Tamil Eelam (LTTE) continued to undermine the process by acts of terrorism. Sustained mostly by financial assistance from abroad, the LTTE had recently increased the intensity of its activity, but had been unable to obtain broader support from the people it claimed to represent. The voters of Jaffna had refused to pay attention to its threats and had gone to the polls in January 1998. The turnout (20 per cent) had been low, but the election had indicated an emphatic refusal of violence and acceptance of the democratic process. Although for more than 10 years elections in Jaffna had been prevented by terrorism, the population had elected its first woman mayor, the candidate of the oldest Tamil parliamentary party in Sri Lanka. Abroad, too, the LTTE was increasingly branded as a particularly ruthless te rorist organization. The Government remained ready to negotiate with the LTTE, provided that the organization gave up terrorism and entered the democratic process in which the other political parties were engaged.

86. The new draft Constitution provided for further safeguards against human rights violations. It also made provision for an unprecedented devolution of governmental power. Those provisions ensured that people from all regions, regardless of their ethnic origin, could administer their own affairs. The Human Rights Commission of Sri Lanka had become operational; it had already considered petitions and had made over 700 visits to police stations. A

budget of 28 million rupees had been allocated to it. In October 1997, Sri Lanka had ratified the Optional Protocol to the International Covenant on Civil and Political Rights.

87. With reference to alleged disappearances, the Government had already had occasion to discuss that area of concern with the Working Group on Enforced or Involuntary Disappearances; investigations were in progress and a visit by the Working Group was being considered. Freedom of expression was a constitutionally guaranteed right and it was to be noted that the Government had strongly condemned the harassment of a journalist and that investigations were under way in that regard. All relevant information would be made available to the Special Rapporteur on freedom of expression.

88. On humanitarian issues, the Government of Sri Lanka had continued its productive partnerships with a number of United Nations agencies, other international organizations and NGOs. In 1997 alone, the Government had spent approximately 2 billion rupees on supplying goods and services to the north, with the full knowledge that a considerable percentage of that assistance had been creamed off by the LTTE terrorists. The Special Rapporteur on extrajudicial, summary or arbitrary executions had visited Sri Lanka several months previously at the Government's invitation. He had been given full freedom to meet persons he had wished to see and had had access to all information. After the first reading of his report, the Government had found that certain generalizations did not reflect the complex issues involved; it would, however, continue to make a careful study of the report and would continue the dialogue with the Special Rapporteur.

89. Mr. Selebi (South Africa) resumed the Chair.

90. Mr. WU Jianmin (People's Republic of China), recalling that it had been some 30 years previously that the Commission had decided to incorporate the item on the violation of human rights and fundamental freedoms in any part of the world in its agenda, said that that item had become the most controversial and most highly politicized. In celebrating the fiftieth anniversary of the Universal Declaration of Human Rights and the fifth anniversary of the Vienna Declaration and Programme of Action, it was perhaps time to envisage reforms to or changes of that item in order better to serve the cause of human rights.

91. It was of primary importance for the Commission to evaluate the human rights situation objectively in member States. It should take three elements into account. Firstly, the Government and the people were in the best position to know and understand the human rights situation in their country. Secondly, while recognizing the universal nature of human rights, each Government and its people had the right to determine their own priorities and how they wished to promote and protect human rights; for example, everyone agreed that democracy was a good thing, but there were different ways of expressing it; while it was possible in Switzerland to organize a referendum to decide whether to build a tunnel or a road, such a situation would be unthinkable in China, where thousands of construction sites existed. Thirdly, the promotion of human rights was a long and ongoing process; each State was involved in that process, but all at different rates, and no State should

impose its model on others. A great Power which had won independence in 1776 had abolished slavery only 87 years later and had not achieved universal suffrage until 1964.

92. While all men were created equal, no one was perfect. It was therefore unjustifiable for certain countries to adopt a condescending and arrogant tone in accusing others. It was because the principle of equality had not been observed that the Commission on Human Rights had become a place of North-South confrontation and even a tribunal.

93. Thirdly, the best way to promote and protect human rights was through dialogue and cooperation rather than confrontation. Since the end of the Cold War, the Commission had adopted 87 resolutions all directed against developing countries. As a consequence of that abnormal situation, the atmosphere in the Commission had become increasingly intense and conflictive and the cause of human rights in developing countries had suffered from that situation. The current session had made more room for dialogue and cooperation than confrontation; the Chinese delegation was ready to work together with all other delegations that wished to promote human rights in that spirit.

94. The representative of a developed country had made unwarranted charges against China in her statement, thus revealing her ignorance about the reality of modern China. Like it or not, China was currently going through a period of major progress, including unprecedented advances in the field of human rights.

The meeting rose at 6.05 p.m.